

CRAVATH, SWAIN & MOORE

12170

RECORDED ON NO. 1425 Filed 1425

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

12170-6

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INTERSTATE COMMERCE COMMISSION

MAURICE T. MOORE
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HENRY W. OKOSMIAN
ALLEN F. MAULSBY
STEWART R. BROSS, JR.
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JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
ROBERT ROSENMAN
JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
JAMES M. EDWARDS
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THOMAS R. BROMER
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ROBERT F. MULLEN
ALLEN FINKELSON
RONALD J. HANCOCK
JOSEPH H. SAHID
PAUL C. SAUNDERS
MARTIN L. BENZEL
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON
RICHARD L. HOFFMAN
JOSEPH A. MULLINS
MAX R. SHULMAN
WILLIAM P. DICKEY
STUART W. GOLD
JOHN W. WHITE

TELEX
RCA 233663
WUD 125547
WUI 620976

INTERSTATE COMMERCE COMMISSION

No. 12170-6
Date SEP 5 1980
Fee \$ 100.00
NEW YORK, N. Y.

SEP 5 1980 -10 20 AM

INTERSTATE COMMERCE COMMISSION

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FRANK H. DETWEILER
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ROSWELL L. GILPATRICK
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RECORDED ON NO. 1425 Filed 1425

SEP 5 1980 -10 20 AM

INTERSTATE COMMERCE COMMISSION
A. E. Staley Manufacturing Company
Lease Financing Dated as of April 1, 1980
12% Conditional Sale Indebtedness Due January 1, 2001

September 2, 1980

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303(a), I enclose here-
with on behalf of A. E. Staley Manufacturing Company, for
filing and recordation, counterparts of the following:

(1) (a) Conditional Sale Agreement dated as of
April 1, 1980, between Exchange National Bank of
Chicago and North American Car Corporation; and

(b) Agreement and Assignment dated as of
April 1, 1980, between La Salle National Bank and
North American Car Corporation;

(2) (a) Lease of Railroad Equipment dated as of
April 1, 1980, between A. E. Staley Manufacturing
Company and Exchange National Bank of Chicago; and

(b) Assignment of Lease and Agreement dated
as of April 1, 1980, between Exchange National Bank of
Chicago and La Salle National Bank.

SEP 5 10 09 AM '80
I.C.C.
OPERATION BR.

RECEIVED

Counterpart — E T Byrne

The addresses of the parties to the aforementioned agreements are:

Trustee:

Exchange National Bank of Chicago
130 South LaSalle Street
Chicago, Illinois 60690

Vendor:

North American Car Corporation
222 South Riverside Plaza
Chicago, Illinois 60606.

Lessee:

A. E. Staley Manufacturing Company
2200 Eldorado Street
Decatur, Illinois 62525.

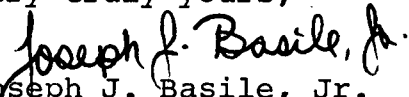
Agent:

La Salle National Bank
135 South LaSalle Street
Chicago, Illinois 60690.

The equipment covered by the aforementioned agreements consists of 100 17,500 gallon exterior coiled insulated tank cars, bearing the road numbers of the Lessee STLX 25100-25199, and also bearing the legend "Ownership Subject to a Security Agreement filed with the Interstate Commerce Commission".

Enclosed is our check for \$100 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt addressed to the undersigned.

Very truly yours,


Joseph J. Basile, Jr.
As Agent for A. E. Staley
Manufacturing Company

Agatha Mergenovich, Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

RECORDATION NO. 12170 Filed 1425

SEP 5 1980 - 10 20 AM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 4876-022]

AGREEMENT AND ASSIGNMENT

Dated as of April 1, 1980

Between

NORTH AMERICAN CAR CORPORATION

and

LA SALLE NATIONAL BANK,
as Agent.

AGREEMENT AND ASSIGNMENT dated as of April 1, 1980, between NORTH AMERICAN CAR CORPORATION, a Delaware corporation ("NAC"), and LA SALLE NATIONAL BANK, a national banking association, as agent ("Agent") under a Participation Agreement dated as of the date hereof ("Participation Agreement").

NAC and EXCHANGE NATIONAL BANK OF CHICAGO, acting as trustee ("Trustee") under a Trust Agreement dated as of the date hereof ("Trust Agreement") with THE BANK OF NEW YORK ("Owner"), have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the sale and delivery to the Trustee by NAC of the railroad equipment described in Annex B to the CSA ("Equipment").

A. E. STALEY MANUFACTURING COMPANY ("Lessee") and the Trustee have entered into a Lease of Railroad Equipment dated as of the date hereof ("Lease") providing for the lease of the Equipment to the Lessee, and the Trustee and the Agent have entered into an Assignment of Lease and Agreement dated as of the date hereof ("Lease Assignment") providing for the assignment of the Lease to the Agent.

In consideration of the agreements hereinafter set forth, the parties hereto hereby agree as follows:

SECTION 1. NAC hereby transfers and assigns to the Agent, its successors and assigns:

(a) all the right, title and interest of NAC in and to each unit of Equipment when and as severally delivered to and accepted by the Trustee, subject to payment by the Agent to NAC of the amount required to be paid pursuant to Section 4 hereof;

(b) all the right, title and interest of NAC in and to the CSA (except the right to deliver the Equipment and the right to receive the payments specified in Section 4.3(a) thereof and reimbursement for taxes paid or incurred by NAC) and (except as aforesaid) in and to any and all amounts which may be or become due or owing to NAC under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in Section 4.1 of the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from

the Trustee under the CSA, other than those herein-above excluded; and

(c) except as limited by subsection (b) of this Section, all NAC's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against NAC for or on account of the failure of the Trustee to make any of the payments provided for in the CSA or otherwise to comply with any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Agent to or transfer or in any way affect or modify the obligations of NAC to deliver the Equipment in accordance with the CSA or with respect to warranties and agreements referred to in Article 2 or Article 14 of the CSA or relieve the Trustee from its obligations to NAC contained in the CSA, it being agreed that all obligations of NAC with respect to the Equipment shall be and remain enforceable by the Trustee and its successors and assigns against and only against NAC. NAC hereby authorizes and empowers the Agent in the Agent's own name or in the name of the Agent's nominee or in the name of and as attorney for NAC, hereby irrevocably constituted, to demand, sue for, collect and receive any and all sums to which the Agent is or may become entitled under this Assignment and to enforce compliance by the Trustee with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Agent.

SECTION 2. NAC agrees that the Equipment shall be constructed in full accordance with the CSA. NAC agrees to deliver the Equipment upon completion to the Trustee in accordance with the provisions of the CSA and, notwithstanding this Assignment, to fully perform each of and all the covenants and conditions of the CSA set forth to be performed by NAC. NAC further agrees that it will warrant to the Trustee and the Agent that, at the time of delivery by NAC of each unit of Equipment under the CSA, it had legal title to such unit and good and lawful right to sell such unit and that such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Trustee, the Agent and the Lessee (and those persons claiming by, through or under the Trustee, the Agent and the Lessee); and NAC further agrees that it will defend the title to such unit against the demands of all persons whomsoever (other than the Trustee,

the Lessee and the Agent, and persons claiming by, through or under the Trustee, the Lessee or the Agent) based on claims originating prior to the delivery of such unit by it under the CSA; all subject, however, to the provisions of the CSA. NAC will not deliver any of the Equipment to the Trustee under the CSA until the CSA, the Lease, this Assignment and the Lease Assignment have been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 (NAC and its counsel being entitled to rely on advice from special counsel for the Agent that such filing has occurred).

SECTION 3. NAC agrees with the Agent that in any suit, proceeding or action brought by the Agent under the CSA for any installment of indebtedness or interest thereon in respect of the Purchase Price of the Equipment or to enforce any provision of the CSA, NAC will indemnify, protect and hold harmless the Agent from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Trustee or the Lessee arising out of a breach by NAC of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Trustee or the Lessee by NAC (in which latter case, NAC will be subrogated to any claim of the Agent against the Trustee or the Lessee, as the case may be, with respect to the matter indemnified against). NAC's obligation so to indemnify, protect and hold harmless the Agent is conditional upon (a) the Agent's timely motion or other appropriate action, on the basis of Article 15 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Trustee or the Lessee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Agent's prompt notification to NAC of the asserted defense, setoff, counterclaim or recoupment and the Agent's giving NAC the right, at NAC's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Trustee or the Lessee and not manufactured by

NAC or Union and in cases of designs, processes or combinations specified by the Lessee and not developed by NAC or Union, NAC agrees, to the extent provided in Annex A to the CSA and except as otherwise specifically provided in Annex A to the CSA, to indemnify, protect and hold harmless the Agent from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Agent or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, process, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Agent will give prompt notice to NAC of any claim actually known to the Agent which is based upon any such alleged infringement and will give to NAC the right, at NAC's expense, to compromise, settle or defend against such claim. NAC agrees that any amounts payable to it by the Trustee or the Lessee with respect to the Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Agent, shall not be secured by any lien, charge or security interest upon such Equipment or any unit thereof.

SECTION 4. The Agent (as provided in Section 4.2 of the CSA) shall pay to NAC on each Closing Date an amount equal to the portion of the Purchase Price of the Equipment then being settled for as shown on the invoice therefor, which under the terms of Section 4.3(b) of the CSA, is payable in installments; provided that the conditions specified in Articles VII and VIII of the Participation Agreement have been satisfied and there shall have been delivered to the Agent (with a copy to NAC and the Trustee), on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to Cravath, Swaine & Moore, special counsel to the Agent, in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill or bills of sale from NAC to the Agent transferring to the Agent the security interest of NAC in such units, warranting to the Agent and to the Trustee that, at the time of delivery of such units to the Trustee under the CSA, NAC had legal title to such units and good and lawful right to sell such units and such units were free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Trustee, the Agent and the

Lessee (and those persons claiming by, through or under the Trustee, the Agent and the Lessee), and covenanting to defend the title to such units against demands of all persons whomsoever (other than the Trustee, the Agent and the Lessee and persons claiming by, through or under the Trustee, the Agent or the Lessee) based on claims originating prior to the delivery of such units to the Trustee by NAC under the CSA;

(b) a bill or bills of sale from NAC to the Trustee transferring to the Trustee, all right, title and interest of NAC (subject to the security interest transferred to the Agent by the bill or bills of sale described in subsection (a) above), warranting to the Trustee and to the Agent that, at the time of delivery of such units to the Trustee by NAC under the CSA, NAC had legal title to such units and good and lawful right to sell such units and such units were free of all claims, liens, security interests and any other encumbrances of any nature except only the rights of the Trustee under the CSA, the Agent under this Assignment, and the Lessee under the Lease, and those arising by, through or under the Trustee, the Agent or the Lessee, and covenanting to defend the title to such units against demands of all persons whomsoever based on claims originating prior to the delivery of such units to the Trustee by NAC under the CSA;

(c) Certificates of Acceptance on behalf of the Trustee and the Lessee with respect to such units as contemplated by Section 3.4 of the CSA and § 2 of the Lease;

(d) the Invoice (as defined in the CSA) for such units accompanied by or having endorsed thereon a certification by the Trustee and the Lessee as to their approval thereof;

(e) an opinion of counsel for NAC, dated as of such Closing Date, addressed to the Agent and the Trustee, to the effect that the bills of sale described in subsection (a) and (b) above have been duly authorized, executed and delivered by NAC and that the bills of sale, the CSA and this Assignment are valid and effective to vest in the Agent the security interest of NAC in such units, and in the

Trustee the entire remaining interest of NAC, as the case may be, free from all claims, liens, security interests and other encumbrances other than those of the Trustee, the Agent and the Lessee, and those persons claiming by, through or under the Trustee, the Agent and the Lessee (counsel for NAC may (i) assume the due authorization, execution and delivery of the CSA and this Assignment by the parties thereto other than NAC, and (ii) as to claims, liens, security interests and other encumbrances arising from, through or under Union Tank Car Company ("Union") or from persons claiming by, through or under Union, rely on an opinion of counsel for Union);

(f) a receipt from NAC for any payment (other than the payment being made by the Agent pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to NAC with respect to such units, unless such payment is made by the Agent with funds furnished to it for that purpose by the Trustee;

(g) a certificate of an officer of the Lessee to the effect that (i) the representations and warranties of the Lessee contained in the Participation Agreement are true on and as of such Closing Date, with the same effect as though made on such Date, (ii) the Lessee is not currently in default under its Documents (as defined in the Participation Agreement) and no condition exists nor has any event occurred which with the giving of notice or the lapse of time or both would constitute such a default and (iii) there has been no materially adverse change in the Lessee's condition, financial or otherwise, since June 30, 1980;

(h) if the Purchase Price for any unit as set forth in the Invoice exceeds the amount set forth in the certificate delivered pursuant to Section 7.8 of the Participation Agreement, a certificate of an independent appraiser to the effect that the Purchase Price as set forth in the Invoice for such units is not in excess of the fair market value thereof on such date; and

(i) such other certificates or opinions as the Agent may reasonably request.

The obligation of the Agent hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Agent's having on deposit, pursuant to the terms of the Participation Agreement, sufficient funds available to make such payment and upon payment by the Trustee of the amount required to be paid by it pursuant to Section 4.3(a) of the CSA. In the event that the Agent shall not make any such payment, the Agent shall reassign to NAC, without recourse to the Agent, all right, title and interest of the Agent in and to the units of Equipment with respect to which payment has not been made by the Agent.

SECTION 5. The Agent may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Trustee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment and upon giving the written notice required in Article 15 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder.

SECTION 6. NAC hereby:

(a) represents and warrants to the Agent, the Lessee, the Trustee and their successors and assigns that the CSA and this Assignment were duly authorized by it and lawfully executed and delivered by it for a valid consideration; that, assuming due authorization, execution and delivery by the Trustee, the CSA and this Assignment are, insofar as NAC is concerned, legal, valid and binding instruments, enforceable against NAC in accordance with their terms and that they are now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Agent, make, execute and deliver all such further instruments of assignment, transfer and assurance and do all such further acts as may be necessary and appropriate to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Agent or intended to be so; and

(c) agrees that, subsequent to the payment in full of the Purchase Price, upon request of the Agent, it will execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of NAC therein or in the Equipment.

SECTION 7. This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois; provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA or this Agreement may be filed or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.


SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Agent shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized

officers as of the date first above written.

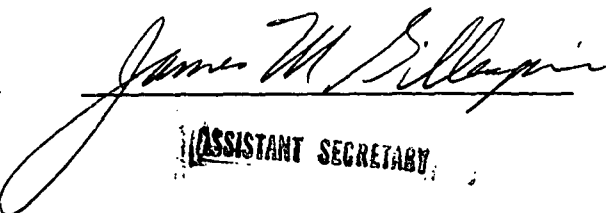

NORTH AMERICAN CAR CORPORATION,

by 

 President

[Corporate Seal]

Attest:


 ASSISTANT SECRETARY

LA SALLE NATIONAL BANK,
as Agent,

by  V.P.

[Seal]

Attest:

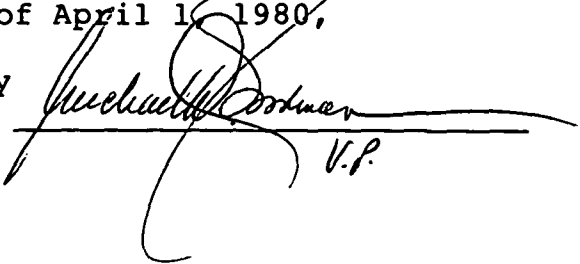


ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

EXCHANGE NATIONAL BANK OF CHICAGO hereby acknowledges receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment as of April 1, 1980.

EXCHANGE NATIONAL BANK OF
CHICAGO, not in its individual
capacity but solely as Trustee
under a Trust Agreement dated
as of April 1, 1980,

by


V.P.

STATE OF ILLINOIS,)

) SS.:

)

On this 4th day of September 1980, before me personally appeared Robert N. Sobell, to

Robert M. Sedball

me personally known, who, being by me duly sworn, says that he is a *Vice President* of NORTH AMERICAN CAR CORPORATION, a Delaware corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

My Commission Expires

My Commission Expires March 29, 1983

STATE OF ILLINOIS,)

) SS.:

)

On this 3rd day of Sept. 1980, before me per-
sonally appeared R. K. WEBER,

R. K. WEBER

to me personally known, who, being by me duly sworn, says that he is a VICE PRESIDENT of LA SALLE NATIONAL BANK, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Notary Public

[Notarial Seal]

My Commission expires

My Commission Expires

AA-11

July 12, 1984